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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/497,071	02/02/2000	Linda I. Hoffberg-Borghesani	LIH-14	7065
10037 7590 06/18/2009 MILDE & HOFFBERG, LLP 10 BANK STREET SUITE 460 WHITE PLAINS, NY 10606				
EXAMINER				
SALCE, JASON P				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: LINDA I. HOFFBERG-BORGHESENI
and STEVEN M. HOFFBERG

Application No. 09/497,071
Technology Center 2400

Mailed: June 18, 2009

Before Deborah L. Perry, Supervisory Paralegal Specialist, Review Team.
Perry, Supervisory Paralegal Specialist, Review Team.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on May 5, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, CLAIMS APPENDIX

A review of the Appeal Brief filed September 26, 2008, reveals that claim 177 in the Claims Appendix of the Appeal Brief is not consistent as amended in the last entered amendment filed on April 19, 2007. The copy of the claims should be in proper format and should not include any markings such as brackets or underlining except for claims in a reissue application in accordance with 37 CFR 41.37(c)(1)(viii). Furthermore, the Claims Appendix cannot assume entry of After Final Submissions for which an Advisory Action (or other Office communication) has not advised of entry. *See also Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8th ed. Rev. 6, Sept 2007) for details.

Specifically, claim 177, as provided in the Brief's Claims Appendix, reads: "...automatically determining a degree of correspondence between data representing content characteristics of a member of the set of available media programs...".

However, in the last entered Amendment dated April 19, 2007, Claim 177 reads: "automatically determining a degree of correspondence between data representing content characteristics a member of the set of available media programs".

Appropriate correction of all claims provided in the Claims Appendix in proper format is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) request Appellant to file a “paper” correcting Claim 177 of the Claims Appendix (only) Brief filed September 26, 2008;
- 2) forward a copy to the Scanning Unit for scanning into the electronic file; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DLP/bar

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